



**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Attorney Docket No.: Q68821

ASANO, SHINICHIRO et al.

Conf. No.: 5542

Appln. No.: 10/089,678

Group Art Unit: 1653

Filed: April 3, 2002

Examiner: Robinson, Hope

For: PROTEIN HAVING PESTICIDAL ACTIVITY, DNA ENCODING THE PROTEIN,  
AND NOXIOUS ORGANISM-CONTROLLING AGENT AND METHOD

**STATEMENT OF AVAILABILITY**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

We, SDS BIOTECH K.K. of 5-6, Shiba 2-chome, Minato-ku, Tokyo 105-0014, Japan, do  
depose, declare and state that:

We are the Assignee of the entire right, title and interest of the invention described and  
claimed in the above-identified application, as evidenced by the Assignment recorded on April 3,  
2002, at REEL 013042, FRAME 0235.

We agree that upon allowance and issuance of the above-identified application into a  
United States Patent, restriction on availability of:

***Bacillus thuringiensis serovar galleriae* SDS502 strain, assigned FERM BP-7667**

which is designated in the specification of the above-identified application and was deposited  
under the terms of the Budapest Treaty at the National Institute of Advanced Industrial Science

and Technology, Independent Administrative Institution at AIST Tsukuba Central 6, 1-1,  
Higashi 1-Chome Tsukuba-shi, Ibaraki-ken, 305-8566 Japan, will be irrevocably removed.

We agree that the above-identified cell line designated in the above-identified application will be maintained for a period of 30 years or 5 years after the last request for the deposit or for the effective life of any patent which issues on the above-identified application, whichever is longer;

We agree that if the deposit becomes non-viable, it will be replaced; and

We also assure access to the deposit to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

SDS BIOTECH K.K.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Takashi Shirai

Title: President & Representative Director

特許手続上の微生物の寄託の国際的承認  
に関するブダペスト条約

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF  
MICROORGANISMS FOR THE PURPOSES OF  
PATENT PROCEDURE

RECEIPT IN THE CASE OF AN ORIGINAL  
DEPOSIT

下記国際寄託当局によって規則7.1に従い  
発行される。

issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this  
page.

### 原寄託についての受託証

氏名(名称)

株式会社エス・ディー・エス バイオテック  
代表取締役社長 白井 孝

寄託者

あ て 名 十

殿

東京都港区芝二丁目5番6号

1. 微生物の表示	
(寄託者が付した識別のための表示) Bacillus thuringiensis serovar galleriae SDS502	(受託番号) FERM BP- 7667
2. 科学的性質及び分類学上の位置	
1欄の微生物には、次の事項を記載した文書が添付されていた。  ■ 科学的性質 ■ 分類学上の位置	
3. 受領及び受託	
本国際寄託当局は、平成12年 7月27日(原寄託日)に受領した1欄の微生物を受託する。	
4. 移管請求の受領	
本国際寄託当局は、平成12年 7月27日(原寄託日)に1欄の微生物を受領した。 そして、平成13年 7月16日に原寄託よりブダペスト条約に基づく寄託への移管請求を受領した。 (平成12年 7月27日に寄託されたFERM P- 17979号より移管)	
5. 国際寄託当局	
独立行政法人産業技術総合研究所 特許生物寄託センター International Patent Organism 名 称: National Institute of Advanced Industrial Science and Technology センター長 小松 泰彦 Dr. Yasuhiko Komatsu, Director あて名: 日本国茨城県つくば市東1丁目1番地1 中央第6(郵便番号305-8566) AIST Tsukuba Central 6, 1-1, Higashi 1-Chome Tsukuba-shi, Ibaraki-ken 305-8566 Japan 平成13年(2001) 7月16日	

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT  
OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

OTPE

SEP 30 2004

TRADE

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT

issued pursuant to Rule 7.1 by  
the INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page.

Depositor

To NAME (APPELLATION) SDS BIOTECH K.K.  
President Takashi SHIRAI  
ADDRESS 5-6, Shiba 2-chome, Minato-ku, Tokyo

I. INDICATION OF MICROORGANISM	
(the identification reference given by the depositor)  Bacillus thuringiensis serovar galleriae SDS502	(Accession No.)  FERM BP-7667
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
Documents describing items below were attached to the microorganism in Box I .  <input type="checkbox"/> scientific description <input type="checkbox"/> proposed taxonomic designation	
III. RECEIPT AND ACCEPTANCE	
International Depositary Authority hereby accepts the deposit of the microorganism in Box I which was received on July 27, 2000 ( the date of the original deposit ).	
IV. ACCEPTANCE OF REQUEST FOR TRANSFER	
The International Depositary Authority accepted the microorganism of Box I on July 27, 2000 ( the date of the original deposit ). Subsequently, the International Depositary Authority accepted a request for transfer from the original deposit to the deposit under Budapest Treaty on July 16, 2001. (Transferred from the Accession FERM P-17979 deposited on July 27, 2000)	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
APELLATION  ADDRESS :	: International Patent Organism Depositary National Institute of Advanced Industrial Science and Technology, <u>Dr. Yasuhiko KOMATSU, Director</u> AIST Tsukuba Central 6, 1-1, Higashi 1-Chome, Tsukuba-shi, Ibaraki-ken 305-8566 Japan
July 16, 2001	